

ANTOINE "FATS" DOMINO

IBLA 71-138

Decided September 29, 1972

Appeal from Bureau of Land Management decision rejecting high bid for oil and gas lease on Outer Continental Shelf lands, OCS-G 2042.

Affirmed.

Contracts: Formation and Validity: Bid Award! ! Oil and Gas Leases:
Competitive Leases! ! Outer Continental Shelf Lands Act: Oil and
Gas Leases

Where an invitation to submit competitive bids for oil and gas leases reserves the right and discretion to reject any and all bids, regardless of the amount offered, and the high bid for a particular tract is less than 10% of the Government's estimated value of the tract, the high bid may properly be rejected for the reason of inadequacy of the cash bonus offered.

APPEARANCES: Howell Roberts Spear, Esq.

OPINION BY MR. HENRIQUES

Antoine "Fats" Domino has appealed from rejection of his bid for Tract 2150, Black 258, East Cameron Area, South Addition, Louisiana, OCS-G 2042, offered December 15, 1970, at an oil and gas lease sale pursuant to the Outer Continental Shelf Lands Act, 43 U.S.C. § 1337 (1970). The decision by the manager, Outer Continental Shelf Office, Bureau of Land Management stated:

The Notice of this sale published in the Federal Register Vol. 35, No. 205, Pages 16417-16419 inclusive, contained a statement that "The United States reserves the right and discretion to reject any and all bids, regardless of the amount offered."

In accordance with this specific reservation the bid referred to above is hereby rejected for inadequacy of the cash bonus bid.

The appellant contends that although notice of the sale reserved the right to the United States to reject any bid, there was no guideline in the sale notice to indicate what lines would be followed in setting an "adequate" cash bonus, thus creating an undue hardship on this bidder. Appellant further contends that no one, including the BLM manager, knows whether oil or gas exists in commercial quantities under the subject tract, and that failure of any other oil company or operator to submit a bid for this tract indicates that no other person saw fit to put any cash value on the tract. Finally appellant contends that the Manager's decision is erroneous because there is no geological evidence showing this tract to be located in an area favorable to oil or gas accumulation, and he argues that the geological information available to him indicates that the tract is located distinctly in an area unfavorable to the accumulation of oil or gas.

The record shows that Tract 2150 was considered to be part of a single prospect consisting of Tracts 2149, 2150, 2151, and 2152 (Blocks 257, 258, 259 and 267), adjacent to developed producing leases on Blocks 265, 266, and 278, which lie immediately to the southwest from Tract 2150. None of the prospect group, Tracts 2146-2152, had ever been offered to lease before this sale.

Prior to the sale, the Government determined the risk value of Tract 2150 to be \$114,801, and the risk-free value to be \$703,413. ^{1/} Appellant's bid of \$10,000 was the only bid submitted for the tract. The high bid was less than 10% of the pre! sale evaluation by the Government, and only 1.4% of the risk-free value.

At the sale, 13 bids were submitted for Tract 2149, adjoining the subject tract on the east side, with the high bid of \$12,331,000 exceeding the Government's pre-sale evaluation, as well as the risk-free value. Only single bids of \$1,000 each were submitted for Tracts 2151 and 2152, adjoining the subject tract on the south and west sides. Each of these bids was rejected for inadequacy of cash bonus offered.

^{1/} The "risk-free value" may be defined as the total possible recoverable resources, based on estimates by the government's experts. The "risk value" is obtained from the risk-free value by applying a factor based on the reliability of all the data used in determining the risk free value and the discounted rate of the cash flow over the expected period of exploitation of the lease.

Before the sale, the Geological Survey had used the "wildcat acreage" method in its evaluation of the subject tract (and the adjacent tracts comprising the prospect). The unleased tracts are located on a structure which has not previously produced oil or gas, but which is in close proximity to other producing structures. Projection of the nearby reservoirs and sand conditions into the subject tract is possible through use of geophysics, stratigraphy and paleontology. And similarly, it is possible to obtain an estimate of reserves through calculations of nearby comparable structures.

Following the sale, the oil and gas supervisor, on December 16, 1970, recommended to the OCS manager that the high bids on Tracts 2150, 2151 and 2152 be rejected, giving as specific reasons the following:

Tracts 2150, 2151 and 2152 - These three tracts are on a prospect located in the East Cameron area. Seismic data indicates the presence of structure on the tracts and a fault system which would act as a potential trapping mechanism. Also, in each case, our evaluation exceeded the high bid received by at least a factor of 10.

By the terms of the bid invitation, as well as the governing regulation, 43 CFR 3302.5, the right was reserved to the authorized officer to reject any and all bids, regardless of the amount offered. ^{2/} Thus, the Government is not bound to accept any bid which might be considered inadequate, especially one which is merely a fraction of the resource value assigned to the tract by the Government's experts. The Secretary (or his delegate) is not required to show that a bid is inadequate, unreasonable, or lacking in good faith in order to exercise his judgment in determining whether a bid should be accepted or rejected. It is sufficient that his determination to reject a given bid is supported by the record. Kerr McGee Corp. et al., 6 IBLA 108 (June 5, 1972); Humble Oil & Refining Co., 4 IBLA 72 (1971); Humble Oil & Refining Co., A-30906 (December 5, 1967); Pan American Petroleum Corp., A-29510 (August 13, 1963).

We find that rejection of the appellant's bid is supported by the record in this case.

^{2/} The regulation provides: The United States reserves the right and discretion to reject any and all bids received for any tract, regardless of the amount offered.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1 (1972), the decision appealed from is affirmed.

Douglas E. Henriques
Member

We concur:

Frederick Fishman
Member

Anne Poindexter Lewis
Member

